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June 1, 2010

Sanford M. Saunders, Jr., Esquire  
GREENBERG TRAURIG, LLP  
2101 L Street, NW, Suite 1000  
Washington, DC 20037

Re: BSI v. World Avenue, LLC et al.  
USDC-MD Case No.PJM 08 cv 0921

Dear Mr. Saunders:

This is to review Plaintiff's document production and to provide supplemental and amended discovery responses.

BSI produced documents in this case via email on August 11, 2009, stating:

"Counsel:

The emails at issue can be downloaded via the following links:

[http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-20080329-MCX1\\_BT.mbx.zip](http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-20080329-MCX1_BT.mbx.zip) (7 MB)

[http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-20080329-MCX2\\_BT.mbx.zip](http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-20080329-MCX2_BT.mbx.zip) (6 MB)

[http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-20080329-nonMCX\\_Bt.mbx.zip](http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-20080329-nonMCX_Bt.mbx.zip) (3 MB) . . . "

On January 8 and 9, 2010, BSI provided responses to WAUSA's interrogatories and document requests, and produced documents in electronic format via email attachment and via links to online storage. Those links are repeated here, amended by the addition of references to the corresponding discovery requests:

CONFID - DomainRegisandOwnership.zip (193 kb)- produced in response at least to INTS III #10; RPD I #8; RPD II #5.

CONFID-receipts.zip (318 kb); CONFID-receipts2.zip (10.5kb) – produced in response at least to RPD

II #19, #34, #35.

CONFID - serverconfiguration.zip (6.06 MB) – produced in response at least to INTS II #4; RPD I #10, 12; RPD II #2, 31; RPD III #8.

Links for downloads:

<http://www.beyondsystems.net/UCE/WorldAve/BSI%20v.%20Kraft--MD%20PLEADINGS.zip> – produced in response at least to INTS II #6, 7, 8; RPD II #20, 28.

<http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-Darwin-Intel.tar> (14460 KB)

<http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-Darwin-PPC.tar> (14530 KB)

[http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS\\_X-Darwin-PPC-ver4.3.9.tar](http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS_X-Darwin-PPC-ver4.3.9.tar) (9660 KB)

[http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS\\_X-Darwin-PPC-ver4.3.9.tgz](http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS_X-Darwin-PPC-ver4.3.9.tgz) (9440 KB)

<http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-Win32-Intel.zip> (11904 KB)

The production of the installables listed above is intended to be in response at least to Interrogatory Set I, NO. 7. PLEASE NOTE: copies of installables are not produced by way of redistribution of software; are solely for purposes of complying with discovery obligations in this suit; are not to be re-distributed to anyone; and are not to be “installed” or used by anyone other than for purposes of this litigation, BSI v. World Avenue.

[http://www.beyondsystems.net/UCE/WorldAve/ISP\\_impact.zip](http://www.beyondsystems.net/UCE/WorldAve/ISP_impact.zip) ( 65 MB)

<http://www.beyondsystems.net/UCE/WorldAve/BSI001-ISP.zip> (146 MB)

On March 15 and 23, 2010 BSI produced approximately 2,000 additional emails at issue. After removal of duplicates and re-numbering, that series consists of SPAM-W080001 through SPAM-W081981 (confidential). A prior series numbered as SPAM-W068307 through SPAM-W070466, as noted in my letter of March 23, 2010, should be disregarded. The designation of the emails at issue as confidential due to their display of certain email addresses was challenged, and the confidential designation was removed. The word, “confidential” is retained in the listing of electronic files in this letter simply to permit complete matching of the file names.

On March 23, 2010 BSI produced the following electronic files:

**Emails at Issue** (Responsive to Document Request 1)

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CONFIDENTIAL-WorldAve-20080329-MCX1\_BT.mbx.zip  
CONFIDENTIAL-WorldAve-20080329-MCX2\_BT.mbx.zip  
CONFIDENTIAL-WorldAve-20080329-nonMCX\_Bt.mbx.zip  
CONFIDENTIAL-WA-Vente-Qinteract-20100226\_Bt.mbx.zip  
CONFIDENTIAL-WorldAve-Kitara\_20100224\_Bt.mbx.zip  
CONFIDENTIAL-WA-Vente-Qinteract-20100226b\_Bt.mbx.zip  
CONFIDENTIAL-WorldAve-Kitara\_20100224b\_Bt.mbx.zip  
SPAM-W080001 through SPAM-W081981 (confidential)  
SPAM-W080001 through SPAM-W081981 (confidential)

**Domain Registration and Ownership** (Responsive to Document Request 8)

CONFID-DomainRegisandOwnershipDomainRegisAndOwnership\_Bt.mbx.zip (193 kb) BSI-W0000001 through BSI-W0000396 (confidential)  
BSI-W0000397 through BSI-W0000622 (confidential)  
BSI-W0000623 through BSI-W0000628 (confidential)

**ISP-related Purchases, Receipts** (Responsive to Document Request 7)

CONFID-receipts.zip (318 kb)  
CONFID-receipts2.zip (10.5kb)

**Server Configuration** (Responsive to Document Request 10)

CONFID-SERVER CONFIGURATION.zip (6.06 MB)  
BSI-K0000001 through BSI-K0000030 (confidential)  
<http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-Darwin-Intel.tar>  
(14460 KB)  
<http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-Darwin-PPC.tar>  
(14530 KB)  
[http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS\\_X-Darwin-PPC-ver4.3.9.tar](http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS_X-Darwin-PPC-ver4.3.9.tar) (9660 KB)  
[http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS\\_X-Darwin-PPC-ver4.3.9.tgz](http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-MacOS_X-Darwin-PPC-ver4.3.9.tgz) (9440 KB)  
<http://www.beyondsystems.net/UCE/WorldAve/Software%20Installables/CGatePro-Win32-Intel.zip>  
(11904 KB)

[http://www.beyondsystems.net/UCE/WorldAve/ISP\\_impact.zip](http://www.beyondsystems.net/UCE/WorldAve/ISP_impact.zip) ( 65 MB)

**Other Litigation** (Responsive to Interrogatory 6)

<http://www.beyondsystems.net/UCE/WorldAve/BSI%20v.%20Kraft--MD%20PLEADINGS.zip>

**Other Documents**

BSI-K0003178.pdf through -3203

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BSI-K0003206.pdf  
BSI-K0003209.pdf through - 13  
BSI-K0003215.pdf through -17  
BSI-K0003219.pdf through -21  
BSI-K0003223.pdf  
BSI-K0003225.pdf  
BSI-K0003228.pdf through -35  
BSI-K0003237.pdf  
BSI-K0003238.pdf  
BSI-K0003241.pdf  
BSI-K0003244.pdf  
BSI-K0003247.pdf  
BSI-K0003248.pdf  
BSI-K0003250.pdf  
BSI-K0003251.pdf  
BSI-K0003254.pdf  
BSI-K0003255.pdf  
BSI-K0003257.pdf  
BSI-K0003261.pdf  
BSI-K0003262.pdf  
BSI-K0003263.pdf  
BSI-K0003264.pdf  
BSI-K0003265.pdf  
BSI-K0003266.pdf  
BSI-K0003267.pdf  
BSI-K0003269.pdf  
BSI-K0003270.pdf  
BSI-K0003271.pdf  
BSI-K0003272.pdf  
BSI-K0003273.pdf  
BSI-K0003274.pdf  
BSI-K0003275.pdf  
BSI-K0003276.pdf  
BSI-K0003279.pdf  
BSI-K0003280.pdf  
BSI-K0003281.pdf  
BSI-K0003282.pdf  
BSI-K0003283.pdf  
BSI-K0003284.pdf  
BSI-K0003285.pdf  
BSI-K0003286.pdf  
BSI-K0003287.pdf

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BSI-K0003288.pdf  
BSI-K0003289.pdf  
BSI-K0003290.pdf  
BSI-K0003291.pdf  
BSI-K0003292.pdf  
BSI-K0003293.pdf  
BSI-K0003294.pdf  
BSI-K0003295.pdf  
BSI-K0003298.pdf  
BSI-K0003302.pdf  
BSI-K0003304.pdf  
BSI-K0003641.pdf  
BSI-K0003642.pdf  
BSI-K0003643.pdf  
BSI-K0004108.pdf  
BSI-K0004122.pdf  
BSI-K0004135.pdf  
BSI-K0004143.pdf  
BSI-K0004158.pdf  
BSI-K0004166.pdf  
BSI-K0004174.pdf  
BSI-K0004192.pdf  
BSI-K0004206.pdf  
BSI-K0004217.pdf  
BSI-K0004223.pdf  
<http://www.beyondsystems.net/UCE/WorldAve/BSI001-ISP.zip> (146 MB)  
IMAGES001 through -7IMAGES 001:  
BSI0000001.TIF through BSI0000500.TIF  
IMAGES002 :  
BSI0000501.TIF through BSI001000.TIF  
IMAGES003:  
BSI0001001.TIF through BSI0001500.TIF  
IMAGES004:  
BSI0001501.TIF through BSI0002000.TIF  
IMAGES005:  
BSI0002001.TIF through BSI0002500.TIF  
IMAGES006:  
BSI0002501.TIF through BSI0003000.TIF  
IMAGES007:  
BSI0003001.TIF through BSI0003500.TIF

Also on March 23, 2010, BSI produced a table itemizing the emails claimed in this suit, which

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number more than 70,000, also listing the features that contain falsity or deception. Along with the table we produced a legend for interpretation of codes and abbreviations used in the table. These items were intended in response at least to RPD set I, No. 1.

On March 27, 2010 I sent an email reading: "Sandy: It is my understanding that all of the points in your email below are now moot, by virtue of more recent communications and filings."

On March 29, 2010 I sent an email reading:

Sandy:

I am responding to your discovery points below:

Steve:

We are following up with you with respect to BSI's response to our Third Request for Production. As an initial matter, we note that notwithstanding your numerous objections to the various categories of requested documents, you have in several instances promised to produce responsive documents to some of those categories. However, you have not actually produced those items (with the exception of a few links to data compilations which we will address below). We ask that you produce all materials you agreed to produce by no later than close of business by Monday, March 29, 2010.

Specific Categories:

1) As to your production of documents relating to Sebastian Barale, which involves at a minimum categories 1, 4 and 6 of the Third Request, we understand, as per Page 5 of your Response to the Third Request that you have produced SPAM-W000001 through SPAM-W068306, and advised that 57,305 of the Sebastian Barale e-mails at issue are in the 68,306 e-mails, but have not identified, pursuant to Rule 33, which documents within the 68,306 are responsive to this particular request. Please so identify the specific e-mails in question by the close of business on Monday, March 29, 2010.

\*\*\*\*\*

Sandy:

Plaintiff's AI No. 11 states in part:

Having reviewed thousands of emails, Paul Wagner of BSI can recognize certain emails having certain characteristics, as originating with a particular affiliate of World Avenue. For example, "X-Mailer ID: Version 5.0" MailCompanyX inserts into the header each of its emails, which header decodes into the recipient's email address.

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Barale's X-Mailer: header is explained further in Plaintiff's AI No. 1 to WAUSA's second set. This X-Mailer: header appears in SPAM-W000001 to SPAM-W057305, which emails are exactly contained in the two files named "MCX1" and "MCX2":

[http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WA-Vente-Qinteract-20100226b\\_Bt.mbx.zip](http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WA-Vente-Qinteract-20100226b_Bt.mbx.zip) (0.1 MB)  
[http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-Kitara\\_20100224b\\_Bt.mbx.zip](http://www.beyondsystems.net/UCE/WorldAve/CONFIDENTIAL-WorldAve-Kitara_20100224b_Bt.mbx.zip) (1.2 MB)  
[http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX1\\_BT.zip](http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX1_BT.zip) (7.2 MB)  
[http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX2\\_BT.zip](http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX2_BT.zip) (5.5 MB)  
[http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-nonMCX\\_Bt.zip](http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-nonMCX_Bt.zip) (2.9 MB)

\*\*\*\*\*

[Mr. Saunders writes:]

Further, as to the production of the AUX Server and the LinuxDB Server, we are bewildered as to the status of the production. From your Response to Request 1, we understand that you are objecting to production of same, although it is in possession, custody, or control of your own experts and counsel (Step toe). Yet from your Response to Request 5 and Request 6, you advise that "Plaintiff will provide a copy of data from the LinuxDB Server" and "a copy of data from the AUX Server." Does that mean all of the data? Some of the data? Does this refer to the three zipped files in your e-mail of March 24th at 11:48 p.m., the files to be uploaded to the ftp site referenced in that e-mail, or some combination of the above? Are you abandoning your objection and do you intend to produce a copy of the image you made of the servers, or not?

\*\*\*\*\*

[Mr. Ring writes:]

Sandy:

The data refers to the three zipped files you refer to above, plus Plaintiff's AI No. 1, second set. We are working on arrangements for your access to images of the servers, which you accurately note are in the possession of Step toe and experts engaged by Step toe in the Kraft litigation.

*[Supplemental response May 30, 2010 for BSI: the images remain with Step toe and experts retained by Step toe in the Kraft case; WAUSA has served a subpoena on KPG, and KPG has served a response. BSI's position is that the ruling on that subpoena dispute will control.]*

\*\*\*\*\*

[Mr. Saunders writes:]

2) As to the production of documents responsive to Request 3 ( requesting the e-mails at issue in the Kraft action or any other action brought by you), we understand that you

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have identified as responsive documents the entirety of SPAM-W000001 through SPAM-W068306 on Page 9 of the Response to the Third Request for Production as ALSO being emails at issue in the Kraft action or some other action. Thus, we assume from your response that BSI has already sued upon 100% of the 68,306 e-mails at issue in some other action. What we cannot determine from your response, and what is in violation of Rule 33, is your failure to designate which e-mails are responsive to which case brought by BSI. Please so designate as required by the Rule, by no later than the close of business Monday, March 29, 2010.

[Mr. Ring writes:]  
Sandy:

World Avenue's RPD No. 3, third set, seeks "All e-mails upon which suit is or was brought by you in the Kraft Action or in any action brought by you that are identical to any of the EMAILS AT ISSUE." Such emails had already been produced in the following three .mbx files:

[http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX1\\_BT.zip](http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX1_BT.zip) (7.2 MB)  
[http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX2\\_BT.zip](http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-MCX2_BT.zip) (5.5 MB)  
[http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-nonMCX\\_Bt.zip](http://www.beyondsystems.net/UCE/WorldAve/WorldAve-20080329-nonMCX_Bt.zip) (2.9 MB)

However, to be clear, not all the emails in the .mbx files were at issue in the Kraft case. Plaintiff is not obliged to answer the document request, which is arguably compound, with an explanation of the three .mbx files and their contents.

\*\*\*\*\*

[Mr. Saunders writes:]  
3) As to your production last night in your e-mail of March 24th at 11:48 p.m., we understand that you have provided links to three zipped files containing the following identifiers referenced on Page 6 of the Response to the Third Request for Production (aolers, ion, SRE). Please advise whether you will be providing by close of business on Monday, March 29, 2010 the zipped files with the following identifiers (extranet, and mail) on Page 6 of the Response to the Third Request for Production.

\*\*\*\*\*

[Mr. Ring writes:]  
Sandy:

No. Given the concerns you express below about "any process" BSI might have undertaken in extracting the data, Plaintiff will not now produce "extranet 20090311 1505.sql.7z" and "mail.sql.7z". However, BSI is willing to work out arrangements for World Avenue to receive the original disk images, as further addressed below.



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[Mr. Saunders writes:]

As to your suggested production of the documents referenced in your e-mail of March 24th at 11:48 p.m. to an ftp site, please find attached instructions for uploading to the GT ftp site. Please advise if there is any issue in uploading the files to this site. Additionally, we would request that the documents be uploaded not only in Linux format, but also be converted in Windows format. Please advise if you are amenable to this request.

\*\*\*\*\*

[Mr. Ring writes:]  
Sandy:

The phrases "uploaded ... in Linux format" and "converted in Windows format" are meaningless to Plaintiff. The Zip files and other binary files Plaintiff has produced are exact copies of what is in Plaintiff's possession. The integrity of the data is ensured by the Internet protocol suite (commonly called TCP/IP), including HTTP and FTP. If there is good reason for doubt, the parties' file transfers can be verified. Plaintiff intends to produce files consistent with the ESI Agreement, and in the form used in its ordinary course of business. Plaintiff does not agree to process or convert original data into "Linux format" or "Windows format," whatever those are.

\*\*\*\*\*

[Mr. Saunders writes:]

As a final note regarding the links to zipped files you have already produced, particularly the second one, consisting of 3 MB of data, and with respect to the question of whether you are in fact withdrawing your objection to producing a complete copy of the images of the AUX Server and LinuxDB Server, we have this to say. If what BSI put on those links is an example of any process BSI claims to have undertaken to deliberately sort the information in order to produce what BSI claims is relevant, responsive material, we object and are going to go to the Court as quickly as possible for relief unless you make it crystal clear by the close of business on Monday, March 29, 2010 that you will produce by a date certain identified in your response the entire image of both servers without any further sorting or editing on BSI's part.

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[Mr. Ring writes:]  
Sandy:

We agree to produce the original disk images from both servers, assuming suitable arrangements can be made, instead of a derivative thereof that BSI has sorted, edited and otherwise processed. The links you

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reference do indeed provide an example of the process BSI undertook to extract the data from Barale's servers, and was clearly unsatisfactory to World Avenue. You object to Plaintiff "undertak[ing] to sort and produce what it claims is responsive." We will therefore produce "entire images" of the servers, rather than the result of BSI's efforts to sort and process the data. Either side may then sort, process, of course.

\*\*\*\*\*

[Mr. Saunders writes:]

While we have not been able to view the files yet, we have seen the names of the files. Those names include the following tiny, even fragmentary, but highly representative sampling, of a far larger, vast number of files produced to us with similar names:

- 1) for-more-hard-core.com
- 2) catch-a-date.com
- 3) threeiscrowd.com
- 4) freewhore@host.com
- 5) smutpromotion.com
- 6) zeldasfrenchkiss.com
- 7) cheat-on-my-husband.com
- 8) extremepornads.com
- 9) stunningporn.com
- 10) hardcoresmut4u.com
- 11) loads-of-porn.com
- 12) sex-online-right-here.com
- 13) victorsvoluptuousvideos.com
- 14) nodatejustsex.com
- 15) cum-get-sum-porn.com
- 16) greatmensmagazines.com
- 17) 4adultsxxx.com
- 18) sexydotcommers.com
- 19) porn-luv.com
- 20) sweetxxxmail.com

There are many, many, many more of the same sort. Another file name we noticed, particularly representative of our view of what is happening here was:

Timewasters.com

We do not believe that any of the above names are file names, but rather they are part of the contents of file "ion.sql" (which is a text file). So it appears you are able to and did view at least that file, despite your denial.

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[Mr. Ring writes:]

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Sandy:

You apparently find the contents of the Barale materials to be offensive. Please recall that Mr. Barale acted as a marketer promoting your clients' business; that he is not an agent of BSI in any respect, and that you have asked for the contents of his server that were recovered. If you find the materials offensive, talk to Mr. Barale about that.

We note that Alan Ralsky, another World Avenue affiliate, has perhaps acted offensively as well, with his email activity:

<http://www.bop.gov/iloc2/InmateFinderServlet?Transaction=NameSearch&needingMoreList=false&FirstName=alan&Middle=&LastName=ralsky&Race=U&Sex=U&Age=&x=89&y=16>

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[Mr. Saunders writes:]

To sum up, if this is what we get when BSI undertakes to sort and produce what it claims is responsive, we to put it mildly, object. We asked for the entire image taken of both servers and we would like to receive what we asked for without any further helpful sorting assistance by BSI. Please confirm by close of business on Monday, March 29, 2010 that BSI will produce by a date certain identified in your response these server images without further ado.

\*\*\*\*\*

[Mr. Ring writes:]

Sandy:

We agree that World Avenue should receive the "entire images" only, once suitable arrangements for the provision are made, as distinct from any of BSI's own extractions.

*[Supplemental Response May 30, 2010: The exchange above concerning images of "servers" refers to the data on servers obtained from non-party Barale of Mail Company X, a marketer who sent large quantities of commercial emails promoting World Avenue's business, and received compensation from World Avenue. BSI regards Mr. Barale as an agent of World Avenue. The server images are in the possession of KPMG as an expert/investigator retained by Steptoe & Johnson. BSI does not have possession of the server images other than vicariously through Steptoe and KPMG. However, BSI understands that the data is quite voluminous and that reproduction would likely involve copying onto a new hard drive rather than CD or DVD data discs.]*

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[Mr. Saunders writes:]

4) Regarding Request 7, emails at issue in the Stamps.com arbitration, we ask you to withdraw your objection that BSI was not a party to the case and produce the requested material forthwith. As we both know from testimony given by your client, Paul Wagner, BSI stores Hypertouch data pursuant to a "verbal agreement" made between Mr. Wagner and his brother, Joe Wagner. BSI is obligated to

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produce that which is in its possession. We ask that you commit by the close of business on Monday, March 29, 2010 to produce this information by a date certain identified in your response.

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[Mr. Ring writes;]

Sandy:

BSI and Hypertouch are separate entities. We stand on prior objections. Regardless, BSI expects to produce Stamps.com docs within the next 7 days.

*[Supplemental response May 30, 2010: BSI was not a party to the Stamps.com proceedings, including the arbitration proceedings in that case. However, BSI has possession of, and has now produced, some of the documents requested. BSI stands on its prior objections as to any other documents sought by World Avenue pertaining to the Stamps.com arbitration and related proceedings. ]*

\*\*\*\*\*

[Mr. Saunders writes:]

5) Regarding Request 8 pertaining to server logs, we respectfully reiterate our prior request and insist that the entirety of the logs be produced for the time period of the E-Mails At Issue and superseded Additional E-Mails At Issue. Our expert needs that information in order to perform a complete analysis of issues which include spoliation of evidence and our deep concern over your client's purported recreation of same through the process it refers to as "rendering." Please confirm by close of business on Monday, March 29, 2010 that you will be producing these logs in their entirety on a date certain identified in your response.

\*\*\*\*\*

[Mr. Ring writes:]

Sandy:

We stand on prior objections. The quantity of data requested is huge, and bears little relevance to the issues in this case. What "purported recreation of [evidence] through the process [Plaintiff] refers to as "rendering"" has you "deeply concerned" to the extent that you say you need mail server logs? We are not aware of any rendered emails produced by Plaintiff in this case, excepting for a few exhibits.

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[Mr. Saunders writes:]

6) Regarding requests 9 and 10 pertaining to revenue breakdown, as you know, BSI has already been required by Court Order in the Kraft litigation to answer an interrogatory detailing amounts collected pursuant to settlements in the dozens of various litigation matters BSI has filed over the years. Unfortunately this answer was provided under seal. The information is no less relevant in this case, and the objections are clearly a waste of everyone's time in light of the Court's prior ruling in such clearly analogous litigation. Please confirm by close of business on Monday, March 29, 2010 that you will provide the requested information by a date certain identified in your response.

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[Mr. Ring writes:]

Sandy:

We are willing to discuss a disclosure similar to that in the Kraft case, via agreement, that met the concerns of both sides.

*[Supplemental response May 30, 2010: BSI has now provided a supplemental response to WAUSA's Interrogatory Set II, NO. 11, Interrogatory Set III, no. 1, and Document Request Set II, no. 10.]*

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[Mr. Saunders writes:]

7) Request 11 asked for copies of all draft settlement agreements exchanged with Sebastian Barale. Once again, you have refused to produce. BSI claims roughly 57,000 of the emails at issue in this case came from or were identified through servers obtained from Mr. Barale. We believe we are entitled to see what BSI offered to Mr. Barale in settlement in order to obtain this information. Please confirm by no later than the close of business on Monday, March 29, 2010 that you will produce the requested documentation by a date certain identified in your response.

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[Mr. Ring writes:]

Sandy:

We are in the process of clarifying with Steptoe the terms under which these materials might be released, as you are asking for negotiations between Steptoe as counsel for BSI, and Barale.

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[Mr. Saunders writes:]

8) Request number 14 concerned information in your possession regarding your contention that certain of the emails at issue in this case came from Alan Ralsky, whom you claim was an affiliate of our client. You provided an inmate locator document showing, we presume, where Mr. Ralsky is incarcerated at this time. That document is not responsive, but its provision in response to what we did ask for is just as sarcastic, arrogant and unhelpful as the provision of the files named above. Accordingly, please confirm by no later than the close of business Monday, March 29, 2010 that you will produce the documentation on a date certain identified in your response that actually responds to this request.

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Sandy:

Subject to its prior objections, BSI will produce Ralsky data in the next 7 days.

\*\*\*\*\*

[Mr. Saunders writes:]

Due to the nature of what was produced to us so far and the obvious intent to waste our time and our client's money in a manner we can only construe as insulting (and perhaps also someone's very bad idea of a joke), we are making this attempt to resolve these issues informally, but we do not propose to engage in extended further negotiations on any of the subjects listed above. If we do not hear from you and (i) receive in hand all the requested materials that you already agreed to provide by close of business on Monday, March 29, 2010; (ii) your commitment to produce all the documentation that you withheld or previously objected to; and (iii) a date certain on which each such production shall take place, we will take this up with the Court without further ado and will be providing a copy of BSI's response, the materials produced and this correspondence to the Court.

Best,

Sandy

\*\*\*\*\*

[Mr. Ring writes, within the same long email:]

Sandy:

I do not understand your imputation of sarcasm, or your suggestion my side has done anything as a "joke" in discovery. We take this case very seriously, and we note that the quantity of spam generated by your client's lead generation business is very large, and that it results in large data files.

As to wasting time and money, we see WAUSA's tactics in this case as emblematic of this problem, chasing collateral issues to the extreme, creating distractions.

We do not waive any prior objections. As WAUSA has done in its own responses (which are mostly boilerplate objections with very little responsive information), we reserve the right to maintain our objections.

We have provided you with a series of installments of documents, beginning with the production of the first group of 68,000 spam emails back in June, 2009, and continuing with additional production up to the present. You are insisting that we refine and supplement our production. We are attempting to cooperate, but some of your demands are objectionable, as we have noted. I have provided the

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time frame in which we expect to provide further supplementation for several items, above.

\*\*\*\*\*

BSI has made additional production as follows:

April 11, 2010:

Counsel:

Attached is another set of documents by way of supplemental production.  
(attaching FL SOS on W Ave, Bates 106)

May 16, 2010:

Counsel:

Via the following link, we are producing additional documents:

[http://www.beyondsystems.net/UCE/WorldAve/BSI-JiCos-000001\\_to\\_BSI-JiCos-016599.zip](http://www.beyondsystems.net/UCE/WorldAve/BSI-JiCos-000001_to_BSI-JiCos-016599.zip)  
(145 MB)

These documents are intended as supplemental production in reponse to the following discovery requests:

Interrogatory set 1: No. 2, 3, 4, 5, 11, 16.

Interrogatory set 2: Nos. 1, 2.

Document requests, set 1: No. 3.

Document requests, set 2: No. 38.

Document requests, set 3: Nos. 1, 2, 4, 5, 6, 12, 13, 14, 15.

Due to redundancy and overlap between and among your discovery requests, these documents may be responsive to additional requests beyond those listed above.

There may be some redundancy among the documents (e.g. documents from the Florida Secretary of State) as they have been used by BSI and by counsel in different configurations for different purposes at different times. The newly produced documents include Richter-related pages and click-throughs that I understand have not been previously produced.

May 29, 2010:

Counsel:

This is a continuation of the supplemental discovery responses that began yesterday. I had intended to finish the current supplementation yesterday, but there were some unforeseen interruptions and I am now continuing the process over this Memorial Day Weekend - I would ask your patience as we send additional responses and installments of documents.

Additional documents are now produced via the following link:

[http://www.beyondsystems.net/UCE/WorldAve/BSI-SubpoenaToBalsam-000001\\_to\\_002521.zip](http://www.beyondsystems.net/UCE/WorldAve/BSI-SubpoenaToBalsam-000001_to_002521.zip) (105 MB)

These documents consist of items received via subpoena in the Kraft case from Daniel Balsam, and are

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produced in the order in which they were received.

They cover a variety of topics. At the very least, they cover facts that reinforce the allegations in the complaints as to wrongdoing by World Avenue.

May 30, 2010:

“Counsel:

Plaintiff now produces additional documents via the following link:

[http://www.beyondsystems.net/UCE/WorldAve/BSI-JiCos-016600\\_to\\_BSI-JiCos-016775.zip](http://www.beyondsystems.net/UCE/WorldAve/BSI-JiCos-016600_to_BSI-JiCos-016775.zip) (15 MB)  
containing click-throughs on World Ave emails. These documents are produced in response to at least WAUSA's RPD set I, Nos. 3 and 4; RPD set II Nos. 16, 28; RPD set III No. 12.

May 30, 2010

Counsel:

Attached please find a supplemental response by BSI to two interrogatories and one document request.

This is intended as a courtesy copy subject to final amendment after further review by BSI. Upon finalization, the client will sign, and a signed copy will be produced.”

Email May 31, 2010:

Email May 31, 2010:

Counsel:

This will serve as supplemental production of documents, as part of the series of installments that started May 28. BSI is now producing documents via the following link:

[http://www.beyondsystems.net/UCE/WorldAve/BSI-K0000031\\_to\\_BSI-K0004235.zip](http://www.beyondsystems.net/UCE/WorldAve/BSI-K0000031_to_BSI-K0004235.zip)  
(159 MB)

This zip file includes BSI-K0003178 - 3262, which were previously produced, but are included as part of the larger numerical sequence in this zip file.

The documents produced at the above link include log files, click-throughs including landing pages, services and communications between BSI and Hypertouch services and communications between BSI and Hypertouch, domain and IP address information, configuration and account information, complaints, service disruption/degradation discussions, email handling, anti-spam features, documents from earlier

litigation, evidence of spam-related costs, invoices from vendors, invoices to clients, other client



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information, and information about World Avenue's various spammers.

These documents are produced in response to at least WAUSA's RPD set I, Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15 and 16; RPD set II Nos. 2, 3, 5, 9, 10, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 24, 25, 26, 27, 28, 30, 31, 32, 34, 35 and 37; RPD set III Nos. 4, 5, 8, 12, 13, 14 and 15; and RPD Set IV Nos. 9, 17, 18, 20 and 23.

BSI is continuing to review its files for additional documents that may be responsive to WAUSA's discovery requests and will supplement as appropriate.

Sincerely,

/s/

Stephen H. Ring